Neutral Citation Number: [2017] EWHC 1841 (Ch)

Case No: HC-2017-001013

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION

Rolls Building, Fetter Lane,
London EC4A 1NL
Date: 25/07/2017

Before :

CHIEF MASTER MARSH

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Between :

44 WELLFIT STREET LIMITED	**Claimant**
- and -	
GMR SERVICES LIMITED	**Defendant**

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Adam Deacock (instructed by **Gateleys plc**) for the **Claimant**
Paul de la Piquerie (instructed by **Sahota Newcomb Scott**) for the **Defendant**

Hearing dates: 19, 20 and 30 June and 3 July 2017

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Judgment Approved

Chief Master Marsh:

1. The Claimant is the registered proprietor of a freehold interest in industrial land ("the Land") forming title number TGL73898 at 9 Hinton Rd, 1 Wellfit Street and 3-11 (odd) Wellfit Street, London. The Land is situated near Loughborough Junction in South London and has been used for some years as a yard for scrap metal dealing. The land was at one time held in several different titles. They are now consolidated into one title.

2. The Claimant is a special purchase vehicle (SPV) incorporated on 6 May 2015 for the purposes of acquiring the Land. It is a subsidiary of Projects London Developments Ltd ("Developments"). James Parritt and Kuan Wai Leng were the directors and shareholders of Developments and directors of the Claimant. Developments was formerly known as Parritt Leng Developments Ltd. The same persons were also directors and shareholders of associated companies including Parritt Leng Construction and Management Ltd, which changed its name to Kherg Construction Ltd ("Kherg"), Parritt Leng Ltd, now Studio 4 Architecture Ltd. Mr Parritt and Mr Leng were involved in commercial property development and it appears for a period of time their businesses were successful. However, their working relationship did not endure and their success was relatively short-lived.

3. Kherg went into liquidation on 12 July 2016 and Developments went into liquidation a few months later on 14 November 2016. By this later date, Mr Leng had resigned as a director of the Claimant leaving Mr Parritt as the sole director. On 20 December 2016 Mr Parritt was removed as a director of the Claimant. Under the control of a new board, the Claimant sought to establish in January 2017, through its solicitors Gateley plc, who was in occupation of the Land. It emerged that the Defendant claimed to be entitled to occupy the

land under a lease dated 21 December 2015 and to have the benefit of an option to purchase the land bearing the same date ("the Lease" and "the Option"). The Claimant had no records of the Lease or the Option being granted, or copies of either document, and took the view that they were both bogus.

4. On 4 April 2017, the Claimant exercised the remedy of self-help and broke in to the Land and took possession. The Defendant immediately took back possession and declined to vacate the land. On the same day, the Claimant commenced this claim for possession of the Land and certified that the claim was suitable to be pursued in the High Court. The claim came before me on 7 April 2017 and I directed that it should come on for trial on an expedited basis and gave directions to enable that to occur. The trial took place over four days on 19, 20 and 30 June and 3 July 2017.

5. The Claimant says that the Defendant is a trespasser and that the Lease is of no legal effect. It is said both the Lease and the Option are forgeries, in the alternative, the Lease is a recent creation or it is a sham. The Claimant has put the Defendant to proof of the authenticity of the Lease and the Option and has also challenged the authenticity of several emails and letters, diary entries and text messages. If the Claimant is right, the Defendant has put forward a case based upon a considerable number of forged documents. The first two grounds relied upon by the Claimant are issues of fact and the legal consequences that flow, if the Claimant is correct, are not in doubt. In view of the serious nature of the allegations that are made concerning the Defendant's evidence, it is right to deal with the core issue concerning the authenticity of the Lease first.

6. The Defendant in its defence and counterclaim claims that even if the Lease is not valid it has a business tenancy under Part II of the Landlord and Tenant Act 1954. However, that claim is not pursued. In addition, the Defendant counterclaims for damages arising from the Claimant's actions in taking possession on 4 April 2017. That aspect of the claim stands or falls with the claim.

The Lease

7. The Lease is a curious document. It describes itself as a "Lease to Occupy" and it bears no obvious sign of having been drafted by a lawyer. Neither of the law firms that were involved in the acquisition by the Claimant of the land on 31 July 2015 drafted it. It is the Defendant's case that Mr Parritt produced it himself and it was at his request the Lease was dealt with in parallel with the underlying transaction, without the involvement of any lawyers.

8. The demise makes no reference to the registered title. However, it is described by reference to a plan that is the title plan for the consolidated title number – TGL73898. It must follow that the draftsman of the Lease has access to the Land Registry title after the title had been consolidated. The style in which it has been drafted bears little resemblance to a standard form of lease and it contains provisions that are unusual in a lease, such as warranties by the landlord.

9. The Defendant has not disclosed an original version of the Lease. There are two certified copies that were certified on different dates but these are copies of certified copies. The first copy is said to have been certified by Mr AC Gillan, who is a consultant solicitor with Clarke Kiernan Solicitors, on 23 December 2015 and the second copy certified by him

on 20 February 2016. Each page of the lease bears a certification stamp in the name of the firm, a signature, Mr Gillan's name and the date. This laborious process would have involved the certifier repeating the same process 17 times on both occasions.

10. The execution clause states that the Lease is signed as a deed by both executing parties with Mr Parritt signing for the landlord and Aimee Glynn signing for the tenant. Both certify that they have "proper authority to sign". Mr Parritt's signature is witnessed by Victor Bellamy and Ms Glynn's signature is witnessed by Mr Gillan. The draftsman of the Lease does not appear to have had in mind s.44 of the Companies Act 2006 because neither signatory is described as a director but nothing turns on that for the purposes of the claim.

11. The Lease also bears two sets of initials on each page (other than the plan) – "JP" and "AG" – the initials of James Parritt and Aimee Glynn. Both sets of initials are neatly formed. The Claimant says that the initials JP precisely match on each page.

12. Leaving aside certain oddities in the style of drafting and content, although the term of the Lease is five years from 21 December 2015, the term is extendable pursuant to clause 24.1 for further periods of five years up to a maximum of 25 years. The rent is £520 pa payable every second year in arrears with no review over the entire term, whether extended or not.

13. Unusually, there are no restrictions on assignment or underletting.

14. Although there is a forfeiture clause, the forfeiture provision only applies if rent has been outstanding for 60 days after written demand or in the event of "persistent breach of terms of the lease despite having been warned three times by the Landlord through written notice for each breach; the Landlord will allow 21 days for any breach to be rectified before issuing the subsequent breach notices." There is in addition provision for forfeiture in the event of distress or execution that is not discharged within 21 days.

15. Clause 22.4 provides that if the landlord terminates the Lease for any reason, it must give 8 months' notice with an arrangement for a reduced notice period at the option of the tenant provided the landlord pays £20,000 for each month the notice period is reduced. It is unnecessary for the purposes of this claim for the court to seek to interpret how the forfeiture and notice provisions might be made to work together. On the face of it, however, they are incompatible.

16. Most unusually, the Landlord faces a strong disincentive for exercising the right of forfeiture or exercising other normal rights that go with the position of landlord of commercial land let on a lease to a business tenant. Clause 22.3 provides that:

> "If the Landlord terminates the lease for any reason including sale of any of the land listed within this lease and or approval for development, then it will pay the following amount to the Tenant as agreed:"

Within the first five year period the Landlord must pay £7 million. Within the second period of five years (the years in the Lease are incorrect but 2025 to 2030 is clearly intended to mean 2020 to 2025), the landlord must pay £5 million.

17. To put these sums in perspective, the Claimant had acquired the Land in July 2015 for £2.3 million. Read literally, if the Landlord forfeited the lease within the first five years of the term it would have to pay a sum more than three times the amount it had already paid for the

Land. And it appears that the draftsman of the lease had assumed that if the landlord disposed of any part of its reversion, or even obtained approval for development, this would terminate the Lease. Plainly the premise of such a provision is wrong in law.

18. Mr Deacock who appeared for the Claimant colourfully described the Lease as a "developer's suicide note". Although the commerciality of the transaction is a factor when considering the evidence concerning authenticity of the Lease, it is but one factor to be taken into account.

19. The issue about the Lease being a sham requires a careful review of the authorities dealing with that principle. Mr de la Piquerie who appears for the Defendant complains that the Claimant's case on sham has not been properly pleaded and both in his skeleton argument and his closing submissions he has dealt with the authorities in some detail. The approach I propose to adopt is only to deal with the case on sham if I am against the Claimant on its primary case.

The Option

20. Although it is only indirectly relevant, the Option (also dated 21 December 2015) warrants mention because it is said to have executed at the same time as the Lease. They are also expressly linked by the indemnity clause in the Option and other matters. The form of the Option, including the typeface, font size and layout, is identical to the Lease. I also note that the page numbering of the Lease and the Option appear to be consecutive with the pages of the Lease being numbered 1 to 17 and the Option numbered 18 to 26.

21. The Option gives the Defendant an option to acquire the freehold of the Land for £1 million at any time up to 21 December 2025. It records that the "option price" of £100,000 was paid on 31 July 2015. However, the drafting of clause 3, which contains "particulars of the transaction", is muddled. Although the option may be exercised at any time up to 21 December 2025, the sale price of £1 million is payable at the rate of £200,000 pa but it then goes on to assume that the Option will only be exercised on the last possible date because it shows payment dates in 2025 to 2029. A deposit of £15,000 is payable in addition to the option price but it is not at all clear when the deposit would have to be paid. Other important features of the option are:

(a) No security is provided by the Defendant for payment of the sale price over 5 years despite the Defendant being a newly formed company in mid-2015.

(b) The obligations of the Seller (the Claimant) are backed by a Guarantor, Mr Victor Bellamy, the witness to Mr Parritt's signature on the Lease. Under Clause 7 Mr Bellamy, in addition to guaranteeing the Claimant's performance of the agreement, warrants that he is unaware of anything that might affect the Claimant's ability to comply with the agreement and warrants that the Claimant is not insolvent.

(c) The Land is described by reference to the title number.

(d) The Claimant under clause 9 provides a wide-ranging indemnity to the Defendant and includes the somewhat Delphic provision:

> "The seller also agrees to pay the buyer the original termination fee of £7,000,000.00 (seven million) reference the lease to occupy agreement."
> This would appear to have the effect, when combined with clause 7, of making Mr Bellamy liable to pay the sum of £7 million due under the Lease in the event of early termination if the Claimant failed to pay it.

22. The Option bears initials on every page – "JP" and "AG". The initials are in a form that appear to be identical to the initials appearing on the Lease. In neither case is there any flourish or apparent variation despite the initials being placed on 24 separate occasions.

23. The form of the execution clause for the Option is important. It is set out with the three execution clauses for the Seller, the Buyer and the Guarantor one after the other. They are each formatted with a description of the signatory followed by a row with "Signature" on the left side with space for the signature next to it. The signatures are not individually witnessed. Following the same formatting, the attestation clause appears last in the form that follows:

Signed by Adrian Gillan as Witness of the Signatories

Signature: [Mr Gillan's signature] AC Gillan

24. There are three points of note:

(a) Mr Bellamy is only described as the Guarantor, not as a witness.

(b) The attestation clause purports to provide for attestation of all three signatures.

(c) The person who prepared the Option must have known that Mr Gillan would be the witness when the Option was executed.

Disclosure

25. It is necessary to deal with disclosure before summarising the facts because of the nature of the Claimant's primary case. The Claimant's disclosure does not require any remark save to note a negative point that, despite searches about which there is no complaint or controversy, the Claimant has no record, paper or electronic, of the Lease or the Option or any associated documents.

26. Aimee Glynn has signed two disclosure statements on behalf of the Defendant. None of the documents that have been disclosed are either originals or original copies: for example, the certified copies of the Lease and the Option are merely copies of what are said to be certified copies. Furthermore, the Defendants have not put forward any explanation for how there come to be two different versions of three emails. It will be convenient to refer to describe these emails as being the "Claimant's version" and the "Defendant's version" and the "Disputed emails".

27. The Defendant's disclosure statements both state that a search was carried out for electronic documents in "computer records and storage media which should have contained all of the available electronic information relevant to the case". And in the two lists of documents the Defendant states that "documents that have been stolen from the Company's premises" are no longer in its control.

28. Following disclosure, the Claimant's solicitors served two notices under CPR Part 32.19 in relation to a considerable proportion of the documents disclosed by the Defendant including, importantly, the Lease and the Option and the Disputed emails. The purpose of such a notice is to override the effect of rule 32.19 which provides that a party is deemed to admit the authenticity of documents disclosed, unless notice to the contrary is given. No corresponding notice has been served on behalf of the Defendant. It follows that where there are competing versions of the same document, the Claimant's version must be treated as being authentic. Furthermore, although the burden of proof is on the Claimant to prove its entitlement to possession, the burden is on the Defendant to prove the authenticity of the Lease (and to the extent that it is necessary, the Option) and the burden is on the Defendant to prove the authenticity of the other documents upon which it relies, including the Disputed emails.

29. The Defendant's disclosure contains a puzzling mixture of documents with some significant gaps. The documents disclosed include:

(a) Paper copies of the Defendant's version of the Disputed emails. They are said to have been forwarded by Aimee Glynn to her mother Elaine Glynn in 2015, deleted by Aimee Glynn from her Hotmail account, located by her mother in March 2017 and the re-forwarded to Aimee Glynn.

(b) The Claimant's version of the email dated 24 July 2015 from Roger Harris to Steve Taylor.

(c) Some correspondence between the solicitors acting on the sale and purchase of the Land (but not in connection with the Lease and Option) Judge & Priestley and Bower Cotton albeit that the Defendant has not obtained Judge & Priestley's file.

(d) Copy letters said to have been found in Paul Glynn's safe after he died.

(e) Copies of the two versions of the certified copies of the Lease and Option.

(f) Other documents such as copies of diary entries and copies of screen shots of texts from Aimee Glynn's phone and photographs of the screen shots. The phone is said to have been stolen.

30. The Defendant claims its ability to retain relevant records and documents has been the subject of misfortune and it has suffered a burglary and a theft of electronic devices and paper documents. According to the Defendant, the first event took place over the weekend of 1 and 2 April 2017 when the Wellfit Street premises were broken into. This was discovered on Monday 3 April 2017 and reported to the Police that day. In response to an enquiry, the Police informed the Claimant's solicitors that two laptops and commercial documents were stolen. On 2 May 2017, the second event took place when Aimee Glynn's car was broken into while parked outside her home and a number of items were stolen including a laptop, an iPad and a gym bag containing all of the Defendant's paperwork relating to the claim. Although it is not directly relevant, I note that accountants, Bruce Allen LLP, who acted for Glynns Metal Recycling Ltd ("Glynns") wrote to Glynns' liquidators on 19 November 2015, in response to a request for papers belonging to the company, and were told that recent books were stolen from the back of a car together with a laptop containing summarised records.

The Sale and Purchase transaction

31. Although the parties disagree about the validity of the Lease and the Option, the principal facts relating to what I will refer to as "the Sale and Purchase transaction", namely the sale and purchase of the Land, are to a material extent undisputed.
Prior to July 2015, the Land was occupied by Glynns for its business. Glynns' directors were Paul Glynn, his wife Elaine Glynn and from October 2014 their daughter Aimee Glynn. Part of the Land was leased from members of the Kinsella family and their pension fund and the other part was owned in six separate titles by Paul Glynn (as to one title) and by Paul Glynn, Elaine Glynn and Nigel Sloam as trustees of the SCS Pension Scheme.

32. Mr Leng says he and Mr Parritt met in 2002 when working as architects and after setting up in practice together moved into the field of development and construction. From about 2010 their business model was to acquire development sites using an SPV, obtain planning permission to build residential homes and the sell the site to a third party, often a Housing Association. Normally Kherg would be retained as the contractor. Mr Parritt dealt with the 'front end' aspects of the business by identifying the sites, arranging funding and business development whereas Mr Leng dealt with the 'delivery' aspects of the business such as project management, managing the office and so on.

33. Mr Parritt's and Mr Leng's businesses were involved in a substantial development at Loughborough Junction. Mr Parritt was introduced to Paul Glynn by Tom Luck who is an agent working in the property development field. Terms were agreed on 23 December 2014 for Kherg to acquire both the land owned by the Kinsella family and the Glynn family. The terms agreed with the Kinsella family are not of direct concern save to note that the purchase price of their site was £800,000.

34. Contracts were exchanged on 23 December 2014 for Kherg to buy the land owned by the Glynn family for £1.7m. The contract was prepared by Bower Cotton Solicitors acting for Kherg. Roger Harris of that firm continued to act for Kherg, and associated Parritt Leng companies, throughout the transaction and he appeared was a witness at the trial. It is common ground that the price as originally negotiated by Paul Glynn had been £1.5 million. Aimee Glynn was unhappy about that price. She took over negotiations from her father because had had a serious fall and suffered an injury to his brain of some seriousness (from which he died on 3 March 2017). In late 2014, Aimee Glynn approached Tom Luck and obtained agreement to the price being adjusted to £1.7m. At the date of exchange on both sites, Kherg had contracted to purchase the Land for a total outlay of £2.5m.

35. Mr Leng says he had little involvement with the acquisition of the Land by the Claimant but he says the intention was to develop the site for housing and the Claimant expected to make a profit of £3 to £4 million once the units had been sold. At the material time in mid-2015, he says the Parritt Leng businesses were successful and had ample funds and their disposal.

36. The Glynns' contract is for the most part unremarkable. The only significant features of note are:

> (a) The Land was sold with vacant possession and all plant relating to the business was to be removed.

(b) The contract records that Aimee Glynn, Joe Alexander Glynn and Shannon Marie Glynn (Paul and Elaine Glynn's children) were occupiers of the site. They were parties to the agreement in that capacity and agreed to give vacant possession on completion.

(c) Completion was fixed for 31 July 2015.

(d) The seller's conveyancers are recorded as being Judge & Priestley LLP solicitors.

37. Prior to completion of the sale and purchase terms were re-negotiated. Why this happened is a matter of dispute. It is uncontroversial, however, that Judge & Priestley continued to act for the Glynn family, Glynns and the Glynn pension fund, and that Bower Cotton continued to act for Kherg and acted for the Claimant when it was incorporated.

38. On 2 April 2015 Lucy Rudd of Judge & Priestley reported to Aimee Glynn that they had raised with Bower Cotton the possibility of the completion of being brought forward with the completion monies being held for a short period during which Glynns would remain in occupation under a licence. There is no indication in the email of a more radical re-negotiation being contemplated. There is no email reporting the outcome of the approach. However, on 15 May 2015, Steve Taylor, who had by them taken over dealing with the transaction at Judge & Priestley, said the transfer documents had been sent to Paul and Elaine Glynn on 15 April 2015 but they had not been returned. He reported that the purchase was to be taken in the name of the Claimant with the consequence that the documents would need to be amended.
He wrote to Mr and Mrs Glynn the same day enclosing amended transfer documents (a transfer and a deed of assignment). He said he was waiting to hear about the Glynn's request for early completion. Again, there is no indication that Judge & Priestley were aware of any negotiations to make a radical change to the transaction.
Steve Taylor then sent chasing emails to Aimee Glynn on 16 and 24 June and 10 July 2015. It seems that contact was finally made with her through Tom Luck who spoke to her on 20 July 2015. On the same day, Steve Taylor sent an email to Tom Luck (copied to Aimee Glynn, James Parritt and Roger Harris) referring to Aimee Glynn bringing her parents to the office the following Friday to sign the transaction documents that include a licence enabling the Land to be occupied for a period after completion.

39. A further document emerged from the Defendant's side at the outset of the trial. In paragraph 30 of her second statement, Aimee Glynn said she has "come across" an email from Roger Harris to Steve Taylor dated 20 July 2015 of which she was unaware "until recently". The email had a licence with it in the name of Glynns. Although referred to, the email had not been disclosed and the Defendant was pressed to produce it. It was apparently forwarded to Mr Newcomb of SNS the day before the trial started by Aimee Glynn from her mobile phone but it is entirely unclear where it came from. It is not said to have been forwarded to Aimee Glynn by her mother. In any event, the email refers to the licence having been updated to change the name of the licensee to Glynn Metal Recycling Ltd ("Glynn"). The email asks Steve Taylor whether the variation of contract document was agreed. Glynn is not to be confused with Glynns. They are different entities. Aimee Glynn describes Glynns as her father's company. Glynn was incorporated shortly before 31 July 2015 with Aimee Glynn as its director. It was "her" company.

40. An email from Julia Ferguson of Judge & Priestley to Aimee Glynn dated 24 July 2015 records that Aimee Glynn and her mother came to the solicitors' offices that day. This email is important because it is an undisputed email close in time to the Disputed emails. It is clear that by this date the transaction had changed. The email refers to a licence being granted. Consideration was given to whether it should be granted to a limited company or an individual. It is also clear that the purchase price was likely to be reduced although this was not certain at the time the email was sent. Aimee Glynn was asked to discuss with her parents whether the price reduction of £200,000 still stood. Julia Ferguson requested an inventory of all the plant that was to be left at the Land.

41. The variation agreement signed for the sale completion on 31 July 2015 records:

(a) The purchase price for the Glynn land was reduced from £1.7 to £1.5 million, reducing the overall purchase price to £2.3 million.

(b) The buyer was to acquire the plant on the site and a list of it is attached to the agreement.

(c) Kherg as the buyer agreed to procure that the Claimant would grant to Glynn a licence to occupy.

(d) Glynn agreed to execute two documents. A licence to occupy the property and a statutory declaration to enable sections 24 to 28 of the Landlord and Tenant Act 1954 to be excluded. This was make sure that Glynn did not obtain a business tenancy and thus statutory protection (regardless of how the occupation was described).

42. Both the licence and the statutory declaration were signed by Aimee Glynn on behalf of Glynn. On 31 July 2015 Judge & Priestley wrote to Bower Cotton "further to completion today" sending them the completion documents. There is no indication that any aspect of the transaction remained outstanding or that any new documents were to be executed. The nine documents listed do not include a lease or an option; the list includes a licence.

43. The licence gave Glynn a licence to use the Land and the plant for 12 months from 31 July 2015 for a licence fee of £25,000 pa payable quarterly in arrears. The permitted use was as a "Scrap yard and tattoo parlour", a mixture of uses that is less than obvious. More importantly, the licence was for a fixed period and expressly excluded the relevant provisions of the Landlord and Tenant Act 1954. It also had termination provisions. Both the Claimant and Glynn could terminate it at any time by giving 40 working days' notice. The Claimant could terminate it for breach.

44. Thus, on the face of the documents, the Claimant took some care to ensure that it could regain possession at the latest by August 2016 and that no rights beyond those of a licensee were granted to Glynn. That is the Claimant's case in substance. The reason for the reduction in price is expressed to be because the Claimant was acquiring the plant and granting a 12 months' licence. Whether that was the true reason for the price change does not matter greatly on the Claimant's case. There is no indication in the undisputed documents that either firm of solicitors had any awareness of a parallel transaction or having had any further involvement after 31 July 2015 save for registering the sale and tidying up the titles.

45. No action was taken to secure possession of the site until after the new board of directors of the Claimant was appointed. It was during the course of the Land being appraised by valuers in January 2017 that the issues dealt with at the trial emerged.
Mr Luck was engaged by the liquidators of the Claimant's parent company to market and sell the Land. A valuer went to the site and this prompted Aimee Glynn to ring Mr Luck. He says he was told by her she (or her company) had a lease in place for a term of 10, or 7, years. His understanding was that there was simply a licence in place for 12 months that had expired. He thought the claim to have a lease was strange because a lease of that length, whether 10 or 7 years, would have to be registered. Having reported to the liquidators, he spoke to Aimee Glynn again a few days later and was told by her the lease was in fact only for a term of 5 years (and therefore would not need to be registered). Mr Luck then reported to the liquidators and put Aimee Glynn in contact with Victoria Portman from Gateley.

46. Ms Portman and Aimee Glynn spoke on the telephone on 18 January 2017. There is a typed attendance note of the conversation that records Ms Glynn saying the original lease was granted when the Land was sold for the period up to July 2016 and the second lease was granted before Christmas 2015 for a term of 5 years with an automatic renewal every 5 years. The rent was "something ridiculous" like a £1 paid weekly or monthly. The attendance note does not record any mention of there being an option.

47. Aimee Glynn was asked to provide a copy of the Lease. On the following day, Aimee Glynn said in an email to Ms Portman:

> "I have contacted my solicitor as I explained yesterday he is on leave, I have since our conversation emailed our solicitor again concerning this matter and as soon as I receive a response I will let you know. My copy of the lease is currently held in my father's safe but due to his ill health he is currently in hospital and has been since July 2016 so this would not be accessible."

48. The Defendant's claimed inability to gain access to Paul Glynn's safe until May 2017 forms an important part of its case.

49. On 8 February 2017 Aimee Glynn left a message for Ms Portman to say she was not in a position to see her solicitor at the moment and her father was being transferred from a hospital to a hospice. On 10 February 2017 Gateleys gave Aimee Glynn a deadline of seven days to produce the Lease. On 16 February 2017 Aimee Glynn said in an email that she had contacted her solicitor (as yet unnamed) and had arranged a meeting that evening at 18.30. On 21 February 2017, after having been pressed by Gateleys, Aimee Glynn sent an email naming Andrew Lee & Co as her solicitor and saying they would deal with matters from that point onward. Ms Portman spoke to Andrew Lee the same day. Gateleys attendance note of that conversation records that:

> "He acted for Paul Glynn on the sale of the Land to the Claimant [this is not correct on the case the Defendant has put forward]. He did not recall being instructed to prepare the Lease.
> He had met Aimee Glynn and her husband last week.
> He did not hold a copy of the Lease but was expecting to receive a copy the following day."

50. On 23 February 2017 Mr Lee sent a copy of the Lease and the Option to Gateleys by email. They were copies of the documents said to have been certified by Mr Gillan on 20 February 2017. Aimee Glynn's explanation at the trial for using Mr Gillan to certify the lease rather than Mr Lee, who was instructed to act for her and her company in February 2017, was that it was easier to go to see Mr Gillan in Chistlehurst rather than go to Mr Lee in Maidstone.

51. Gateley took issue with the validity of the Lease and the Option and in a letter dated 20 March 2017 gave 14 days' notice of the Claimant's intention to repossess the Land. This prompted the Defendant to instruct its current solicitors Sahota Newcomb Scott ("SNS") and after an initial exchange of letters Mr Newcomb of SNS sent an email to Victoria Portman on 31 March 2017 at 9.14. He said:

> "I have attached a copy of two emails that have been found by our client which I send as a matter of preaction disclosure. [sic]
> They date back to July 2015 and are between Steve Taylor of Judge and Priestley and Tom Luck of Acorn Limited.
> They refer to the sale of the property to your client and the negotiations on price to reflect the anticipated lease and re-purchase option.
> Mr Harris, Mr Parritt and Leng of your client are copied in.
> …."

52. Both emails are the subject of the Claimant's CPR 32.19 notice. The Claimant has produced versions of the emails that are in a form deemed to be authentic. In any event, both Mr Luck and Mr Harris from Bower Cotton say the Claimant's version does not accord with the emails that were sent and received on that day. Furthermore, although Mr Leng is shown on the Defendant's versions as being copied in, he gave evidence that he did not receive the email. In view of their considerable importance to the outcome of the claim the message in both emails is set out in full. The differences between the two versions are highlighted by the additional words appearing in the Defendant's versions appearing in italics and underlined.

Email Tom Luck to Steve Taylor of Judge & Priestley 20 July 2015 at 12:46

> "Hi Steve
> I have just spoken to Aimee and she is copied in. Best number for her is [omitted].
> I said you will be giving her a call to sort out the completion. *Now we have the final purchase price to include the lease agreement.*
> Regards
> Tom Luck"

Email from Steve Taylor to Tom Luck on 20 July 2015 at 15:13 [copied inter alia to Roger Harris]

> **"**Thanks Tom
> I have now spoken with Aimee and she will be bringing her parents in on Friday morning to sign all the documents.
> Roger, for the avoidance of doubt, the documents to be signed are:
> 1. Transfer
> 2. Stat dec
> 3. *Temporary* Licence
> 4. Variation Agreement
> 5. Deed of Assignment

6. Lease Agreement with Re-Purchase Option

Is that correct? If so, will you be preparing a fresh Transfer with the amended purchase price *to include point 6*?
Regards"

53. The significance of the additional words to the Defendant's case is obvious. They provide, if they are genuine, contemporaneous references to the Lease and Option. In addition, the licence is described as "temporary". Unfortunately for the Defendant, the provision of the two emails did not had the desired effect and it prompted the Claimant to issue this claim and to press for an early disposal.

54. In addition to the two emails dated 20 July 2015, the Defendant also relies on an email dated 24 July 2015 from Roger Harris of Bower Cotton to Steve Taylor copied to Aimee Glynn, Mr Parritt, Mr Leng and Mr Luck. Although the Defendant says this email was in its possession on 31 March 2017 when SNS wrote to Gateley, for reasons that are not clear, a copy was not provided until later.

55. Again, there are two versions of the email with the Defendant's version being subject to the Claimant's notice under CPR 32.19. I set out the email in a similar way to the two earlier emails.

Email from Roger Harris to Steve Taylor on 24 July 2015 at 7.09
Hi Steve
Please do not forget we need an inventory of the "Plant" *point 6. will be drafted and completed at a later date "tbc"*"
Regards
Roger

The additional words are plainly intended to be a reference back to the disputed point 6 in the email dated 20 July 2015.

The Defendant's transaction

56. The Defendant had not been formed at the date the sale and purchase completed on 31 July 2015. It was only incorporated on 17 August 2015 with Aimee Glynn and her husband Myles Tichband as its directors and shareholders. Glynns went into liquidation on 17 December 2015 and Glynn was dissolved on 3 January 2017.
The Defendant's case, in summary, is that Paul Glynn agreed terms with both Mr Parritt and Mr Leng that are at odds with the variation agreement, the licence dated 31 July 2015 and the statutory declaration. It is as if there were two related transactions running in parallel. It is said that in mid-April 2015, some considerable time before completion, there was a meeting at the Land attended by Mr Parritt, Mr Leng, Paul Glynn, Aimee Glynn and another man who is not named by the Defendant. Aimee Glynn's (disputed) manuscript note records, after listing the attendees, there was one further person present "(another man with beard - Chris??). It is said terms were agreed on that occasion that included:

(a) A price reduction for the sale from £1.7 million to £1.5 million in return for Aimee Glynn and Myles Tichband being able to stay on at the yard to continue to run the scrap metal business.

(b) A protected lease under the Landlord and Tenant Act 1954 was to be granted for a minimum of 10 years.

(c) An option to be able to buy back the Land "if any terms change (security for us)".

(d) No rent would be payable.

(e There would be no restrictions on user.

(e) Document to be registered at the Land Registry.

57. Aimee Glynn's note ends with a curious note:
"Paperwork to be done before dad signs completion p.work (agreed 31.7.15)".
And the note also includes at its foot what appears to be a remark addressed by Aimee Glynn to herself:
"await reply from p.leng will be soon *let dad know*"

58. The Defendant also relies on other documents. They, with the note of the meeting in April 2015, are all subject to the Claimant's notice under CPR 32.19. The main documents relied on are:

(a) A letter signed by both Mr Parritt and Mr Leng on Parritt Leng Ltd letterhead dated 27 April 2015 that refers to the "in-depth meeting last week" and sets out terms which accord with the meeting note. The letter is very formal and uses rather awkward language. Surprisingly, although Mr Parritt and Mr Leng were both experienced developers and plainly they knew a contract to purchase the land had already been exchanged, nothing is said about informing Bower Cotton and Judge & Priestley about a variation to the contract. The letter bears a "Received" stamp dated 28 April 2015 which has been initialled. The letter produced on disclosure is a copy; only the copy having been found in Mr Glynn's safe.

(b) A letter from Glynns signed by Paul Glynn and dated 11 May 2015 that refers to "holding off letting the solicitors knowing the new details" but it also states that lease document must be signed before 31 July 2015 otherwise he could be £200,000 out of pocket. The letter bears a 'Sent' stamp dated 11 May 2015 with the "SENT" printed in manuscript and initialled by Aimee Glynn. She said it was normal to stamp copies of letters she had sent with such a marking.

(c) The Defendant's versions of the Disputed emails.

(d) A letter from Parritt Leng dated 28 July 2015 signed by both Mr Parritt and Mr Leng addressed to Paul and Aimee Glynn. It is helpfully headed: "Refrence [sic] Confirmation of Agreement". It bears a received date stamp of 28 July 2015 signed "Aimee" and marked "showed dad" and initialled by Aimee Glynn. The first two paragraphs read:

"Following the meeting you had last Friday with your legal team, please accept my apologies if it came as a shock that the licence will be put in place rather than the original agreed lease. As stated in my communications on

> Friday evening this is merely a piece of paper to take control as of this week. The license will not be used for Ammie's occupation of the yard. [sic] Roger Harris has a strange way of conducting business, the lease draft should have been done by now, please accept my apologies that this hasn't been the case. I managed to get away for a holiday last week to try and relax before the stress of next week hits me. Myself and Mr Leng agreed the points listed below, this has not changed."

This is followed by a repetition of the terms set out in the letter dated 27 April 2015. The letter goes on:

> "I will also have a deed drafted concerning the variation of agreements between both parties to incorporate the license and the lease option to purchase) This can then be signed once the (lease company is incorporated. [sic]
>
> As I stated this is all a trust game, I trust that this deal will go ahead as planned later this week and that you won't try and buy back the land as soon as the documents are signed for a relatively cheaper price and you both will have to trust that myself and Mr Leng will complete, grant the license then exchange the legalities to the lease to include the points above. [sic]
>
> …
>
> You have my word, you really have nothing to worry about, this is just basic formalities, I appreciate neither yourself nor Ammie deal with land deals regularly trust me this is all normal.
>
> …"

It is accepted that Judge & Priestley were not made aware of or shown this letter. The Defendant's case involves, on the one hand, the Defendant's version of the Disputed emails which contain reference to the grant of a Lease and Option but, on the other hand, two experienced firms of solicitors being willing to complete a transaction with a contract of variation making no reference to them.

(e)An agreement dated 20 August 2015. The effect of this agreement on its face is to do away with the restrictive terms of the licence dated 31 July 2015 and to provide a commitment to execute a lease for a term of up to 25 years with protection under the 1954 Act at a rent of £520 pa payable every two years in arrears and to provide for the occupier to be bought out on generous terms. It is signed by Paul, Elaine and Aimee Glynn and James Parritt. Signatures by Paul and Elaine Glynn and James Parritt are witnessed by Shannon Glynn. Aimee Glynn's signature is witnessed by a Michael Smith from Herne Bay. Neither Shannon Glynn nor Michael Smith have been called as witnesses.

(f)An email from James Parritt to Aimee Glynn sent at 23.18 on "Thursday, 19 December 2015" headed: "Points of discussion ref new leese and option". [sic] It refers to a meeting that day and lists a number of points agreed about the lease: "Most important and relevant points listed please let me know your virew [sic] and we can move forward getting the docs written up. It ends by saying:

> "please let me know and I will draw docs up as agreed".
>
> Amongst the list of points Mr Parritt records, he offers to pay Aimee Glynn's legal costs. In the body of the email he reports that he is no longer working with Mr Leng.

(g)An email from Aimee Glynn to James Parritt at 23.58 on Thursday, 19 December 2015 under the same heading. There are two versions of the email. One does not appear as part of a chain although it appears to answer the email sent at 23.18. The other has the initial part of Mr Parritt's message without the standard From and To information that would be included if the reply email were part of a chain.

> Aimee Glynn thanks Mr Parritt for the "offers you put on the table this evening" and says: "It would make me feel a lot better if we could get a lease and option agreement drawn up." She agrees to the lease being drawn up by Mr Parritt and says she will get a solicitor to witness the signatories "… but that is the only legal involvement I will do." She appears to have answered a question she was not asked.

The email goes on:

> "My dad is going to look over the documents when you give them to me as I feel he has been involved from the start and has a lot more experience than I do, I hope you don't mind?
>
> So when this new document is completed that means that he old lisc will no longer be in affect?
>
> I will write my comments in red as you can see the difference in the reply."

(h)There are two versions of each of the emails dated 19 December 2015. On the second versions Aimee Glynn has added text which is intended to explain their provenance. On the email timed at 23.18 she has written:

> "I believe this email was sent on Thursday 19th [copy indistinct; may be 17th] December 2015. I received these emails from Mr Parritt back in January this year. Don't have my copy of the emails. Aimee."

On the email timed at 23.58 she says:

> "Same as above I replied to Mr Parritt's email and believe it was in fact 19th [17th] December 2015".

(i)An email from James Parritt to Aimee Glynn sent at 10.09 on Saturday, 21 December 2015 stating the subject to be: "Documents need signing ASAP". Although the document disclosed by the Defendant is in the form of an email the text is inconsistent with that being so and Aimee Glynn explained in evidence that the document/email was given to her in paper form by Mr Parritt.

> "Please sign docs ASAP this needs to be witnessed on your behalf. You will see myself and Mr Bellamy have completed our part.
>
> Please have these sent back to me, ASAP. Have your solicitor copy and certify please then retain for your records."

The document is consistent with Aimee Glynn's evidence that she was handed the Lease and Option for signature with Mr Parritt and Mr Bellamy having signed them.

(j)A copy of a cheque dated 22 December 2015 drawn on the Defendant's account at Lloyds Bank for £200 with Mr Parritt as payee helpfully marked "COPY" and "Front of Cheque". Underneath the copy cheque is a note in Aimee Glynn's hand dated 21/12/15:

> "Post dated cheque for registration of Lease + option to buy at the land registry £100 per document, total £200.
>
> Handed to Mr J Parritt on 21/12/15 to complete and register documents."

(k)There are 72 pages of screenshots taken from Aimee Glynn's phone said to be of texts between her and Mr Parritt covering the period from 10 April 2015 to 31

> December 2015. There are, in addition, although not in evidence, photographs of the phone with the messages displayed. For the most part the messages are of less importance than the other documents mentioned above but they are said to support the narrative of events in the parallel transaction relied upon by the Defendant. However, several texts from the period in which the Lease and Option were signed are significant because they are not consistent with the emails of the same period. The email exchange refers to a meeting on 19 December 2015 but the meeting is not mentioned in the texts. Instead there is reference in texts dated 15 December 2015 to an arrangement to meet "on Saturday" at 10.00 and then texts chasing Mr Parritt on 19 December 2015 at 10.13. His response was that he was in a cab and would arrive shortly with the papers for signature. Leaving aside the issue about the date on the email sent on 21 December 2015 at 10.09 being incorrect, and assuming it was sent on 19 December 2015, it does not make sense that Mr Parritt would have been sending the overlapping text and email at the same time, or why he would have sent the email at all.
>
> (l)There are copy diary entries from Aimee Glynn's diary. It records, for example, a meeting with Mr Parritt and Mr Bellamy at 10.00 on Saturday 19 December 2015. There is no reference to a meeting a few days prior to that date.

59. It is surprising that, on the Defendant's case, the Lease and the Option were not granted on or before 31 July 2015 given it is said there was agreement about the terms to be incorporated into those documents in April 2015. And, to the extent one was required, the written agreement could have been in place prior to 31 July 2015 although the terms had been agreed at the meeting in April and the exchange of letters. The Defendant says that only after a great deal of chasing on the part of Aimee Glynn, and numerous meetings, were the Lease and Option finally produced and executed in December 2015.

60. In Aimee Glynn's first statement, she describes there having been a series of meetings regarding the lease between June and September between her, her father, sometimes her husband, Mr Parritt and Mr Leng (with Mr Bellamy replacing him at the later meetings). The lease was not drafted by solicitors because Mr Parritt was experienced enough not to require his legal team. She says "we eventually agreed terms" and that Mr Parritt insisted on clauses 22.3.1 and 22.3.2 (the penalties for early termination) being included "… so that it would be economically unviable for [the Claimant] to try to bring the lease to an end during the five-year period." She also says that her father paid £25,000 to Mr Parritt for the first year's rent in August 2015 but the money was returned in September. There is no evidence of the payment or repayment and it is unclear why the full licence fee under the licence would have been paid when the fee was payable quarterly in arrears. The sum equally does not accord with the rent payable under the lease which was a much smaller sum payable in arrears every two years. The absence of any documents arising from the lengthy negotiations is notable. No drafts of the Lease or the Option have been disclosed and there is no suggestion that any drafts were ever provided.
The final meeting regarding the lease and the option took place on "Saturday 19 December 2015". She describes the meeting and how she was told Mr Parritt had fallen out with Mr Leng. As to execution of the documents she says:

> 16. The lease and option agreement was signed and finally agreed on or around 21 or 22 December 2015. Mr Parritt had the papers delivered to the Site so that I could sign them and have them witnessed.

> …
> 18. All the parties were happy with the arrangement and the lease and option agreement was signed by me and James Parritt. After he and Mr Bellamy signed it, he brought it to me to have it signed and witnessed. Mr Adrian Gillan of Clarke Kiernan Solicitors witnessed my signature and Victor Bellamy, an associate of Mr Parritt witnessed his signature. The lease was signed on 21 December 2015.
> 19. After signing the agreement, I gave Mr Parritt a cheque dated 22 December 2015 so that the lease could be registered. …"

61. Paragraph 17 of her statement deals in some detail with "the final meeting regarding the lease and option agreement" taking place on Saturday 19 December 2015. This date fits with the emails that are relied on. The dating errors in the emails that are dated on their face 19 and 21 December 2015 were pointed out in Ms Portman's witness statement dated 7 April 2015. Aimee Glynn's second statement, which runs to 101 paragraphs provides a different account of the events leading up to and immediately following the signing of the Lease and the Option. She relies on the texts that have been disclosed. She says there was a brief meeting with Mr Parritt on 12 December 2015, in the period leading up to the documents being produced for signature, when Mr Parritt just turned up at the yard as she says he did quite frequently. The critical part of her evidence follows:

> "71. During the week before Christmas 2015, I sent a text message after speaking to Mr Parritt on the phone on 15 December 2015. He had told me on the phone that he would be at the yard on Saturday with the papers to be signed and that he would bring Mr Bellamy with him. On Friday 18 December 2015 Mr Parritt rang in the evening and told me he would bring them to the yard on the next day. I was sceptical as we had been promised this before.
> 72. On Saturday 19 December 2015, I texted Mr Parritt. I said I was on my way and asked him to confirm he was still attending. Mr Parritt replied saying "*yes as promised I will be with you around 10am"*. He was not on time and I texted again and said it was 10.13 and wasn't here and asked him to confirm when he would be attending. Mr Parritt replied saying he was in the cab and he had in his possession the papers. Mr Parritt came to the yard with Mr Bellamy. Myles was working but was not involved in the meeting …
> 73. James gave me hardcopies of each of the Lease and option agreement which he had signed. They were in a plastic wallet. Victor Bellamy had witnessed the documents and James had also initialled all of the pages of both documents. I quickly read through them but said I would need to discuss them with dad before I signed them. … I explained I would probably get my signature witnessed by Adrian Gillan who was a solicitor who had worked for the family on another matter in 2015.
> 74. Dad thought that the documents did everything we needed and included all the original agreed points. I went to my parents' house in the evening of Saturday 19 December 2015 and went through these documents with my dad. As he was happy with the documents, I went to Mr Gillan at his offices at [address] on 23 December 2015. I was unable to go earlier in the week because of midwife/health visitor appointments with my daughter and Christmas preparations. I did not phone to make an appointment but just turned up. He did not provide any advice but he did ask whether I had read the documents. I then signed them and Mr Gillan witnessed my signature and photocopied the signed copies and verified them."

62. Two points arise out of this evidence that were not put to Aimee Glynn at the hearing. First, she does not say when she initialled the two documents (each page is initialled AG). If it was in the presence of Mr Gillan he does not mention it. Secondly, as previously noted, the Option has Mr Gillan's name typed as part of the attestation clause. It is not clear how that can have happened when Mr Parritt did not know when the document was being typed of Mr Gillan's identity or his likely involvement. The second point was raised with counsel in the course of preparing this judgment. Neither side wished to recall Aimee Glynn or Mr Bellamy. Mr Deacock submitted I could safely take account of the inconsistency in the Defendant's version of events. Mr de la Piquerie submitted I should go no further than note the point and should not draw any conclusions from it.

Claimant's witnesses

63. Victoria Louise Portman is a senior associate with Gateley plc solicitors. Her evidence is largely formal and explanatory. She was a helpful witness and I accept her evidence without any hesitation. And I accept her explanation of the ease with which screenshots may be produced as is illustrated by the notional exchange of texts between the Prime Minister and the Leader of the Opposition she created. But I give no weight to her evidence about handwriting and the initials JP on both documents which is comment rather than admissible evidence.

64. Roger Harris is a solicitor with Bower Cotton Solicitors LLP. He is clearly a very experienced commercial property lawyer having qualified as a solicitor in 1981 and also having extensive pre-qualification experience. He acted for Kherg and the Claimant. He was a helpful and honest witness and I accept his evidence. When he was asked about the reasons for the price reduction from £1.7 to £1.5 million he candidly said he had never really understood the reason for the reduction and could not add anything to what the documents said. He confirmed that what I have described as the Sale and Purchase transaction took place without him having any knowledge of the Defendant's transaction. The Disputed emails were sent and received as in the Claimant's version. He is clear that the Defendant's versions are bogus. He was never instructed to prepare a lease or an option and he describes the effect of those documents as being at variance with his instructions in the transaction and his overall understanding of the purpose of the transaction. The purpose of the licence for 12 months was to ensure the Land remained secure until the Claimant was ready to develop it and for the rates to be paid.

65. The Claimant sought permission on the first day of the trial to introduce an additional statement from Mr Harris. He exhibited a statutory declaration signed by Paul Glynn and expressed a view about the likeness of the signature on that document compared with the signature on a document the authenticity of which is not admitted by the Claimant. He also said that he had acted for Mr Parritt regularly between 2010 and 2015 and had seen his signature many, many times. He said that the initials JP on the Lease and the Option were not in the style with which he had become familiar. He says Mr Parritt always signed with a flourish. I permitted the Claimant to rely on the statement save to the extent that Mr Harris expressed a view about the likeness of Paul Glynn's signatures.

66. Tom Luck of Acorn Property Consultants gave short but helpful evidence. He was a truthful and straightforward witness. He confirmed that the Claimant's version of the emails is correct. The email from Roger Harris dated 20 July 2015 did not contain any reference to the Lease and he did not receive the Defendant's version. Similarly, the Defendant's version

of the email from Roger Harris dated 24 July 2015 was not received by him. His involvement close to completion of the Sale and Purchase transaction was because Aimee Glynn was not responding the emails from Judge & Priestley. He was unaware of any plan to grant a lease or an option. It seems to me that, as a property professional, he would certainly have remembered the terms for the lease and option because they are so extraordinary. He plainly knew nothing of them. His understanding of the transaction, like Mr Harris, was an acquisition for development as residential housing and the licence was a short-term measure to keep the site secure. Importantly, his unchallenged evidence is that the market rental value of the Land is between £25,000 and £30,000 and, therefore, the grant of a lease at £520 pa with a renewable term of up to 25 years makes no commercial sense.

67. His evidence about his conversations with Aimee Glynn in early 2017 was challenged. He confirmed she had claimed to have a lease for 10 years and then said it was 7 years. He did not mention the thought that had occurred to him that a lease of that length would need to be registered. She later phoned him and said the lease was for 5 years. She did not mention having an option.

68. I permitted the Claimant to rely upon evidence from Mr Christopher Charles Boyle although his statement was served late. He is referred to by description ("a bearded man") in Aimee Glynn's note of the April 2015 meeting. The Claimant could not have known about that reference before seeing the note and it seemed to me it was right that his evidence was before the court and that any prejudice to the Defendant was insignificant.

69. Mr Boyle is an architect and worked at Parritt Leng until 2016. Mr Boyle was a careful witness and obviously truthful. He now works with Mr Leng in a new practice. He can recall attending just one meeting at the Land in mid-2015. He had a beard then, as now. He recalls that only himself, Mr Parritt, Aimee Glynn and Myles Tichband were at the meeting. He never met Paul Glynn. The meeting was fairly casual and he recalls the main topic was the scrap metal yard moving to new premises and the possibility of Mr Parritt setting up a new company to conduct that business with Aimee Glynn and Mr Tichband. He does not recall any discussion about the grant of a long lease or an option and would have been surprised if Mr Parritt had been willing to agree and such terms in view of the aim to purchase the Land and to develop it.

70. Mr Boyle was able to produce a lengthy letter dated 15 May 2015 from a Planning Officer at London Borough of Lambeth concerning a proposed development that included the Land. It is clear from the letter that the Planning Authority had been supplied with outline plans for a substantial development comprising 3 blocks of between 3 and 9 stories and that a pre-planning application meeting had taken place on 10 March 2015. The letter demonstrates that Parritt Leng had taken steps to progress the development well in advance of completion of the purchase and, indeed, in advance of the meeting which Mr Boyle attended.

71. I refused to permit the Claimant to rely upon a witness statement from Andrew John Foster because he had no relevant or admissible evidence to provide to the court.

72. Mr Leng gave evidence. He is clearly an important witness and I accept his evidence. At times, he was dismissive of the questions put to him but I found that, overall, he made a fair attempt to answer questions and was a truthful witness. He was, however, less helpful that he might have been about the reasons why the price reduction from £1.7 to £1.5 million was agreed. No entirely satisfactory explanation has been provided by any of the Claimant's witnesses beyond that which is contained in the transaction documents.

73. The events in the Sale and Purchase transaction hardly involve Mr Leng at all. He never met Paul Glynn or Aimee Glynn and did not go to the Land in 2015 because he was too busy with other work. He did not attend a meeting in April 2015 (as Mr Boyle confirms). His understanding of the transaction accords with the description of the Sale and Purchase transaction and the licence was granted for a limited period. There was never any discussion of a lease or an option or any intention to grant the Defendant, or any other entity, an entitlement an entitlement to remain at the Land beyond the term of the licence. The idea was to allow Aimee Glynn to remain in occupation at a decent rent until he and Mr Parritt had decided how to develop the Land. Had there been any discussion about the grant of an option he would have dismissed it out of hand.

74. His evidence about the Defendant's transaction is clear. He had no knowledge of any such transaction and would not have agreed to it. He has never seen the letters dated 27 April and 28 July 2015. He did not sign those letters. He never received the letter dated 11 May 2015 or the Defendant's versions of the emails dated 20 July and 24 July 2015. He describes the terms of the variation of contract document relied upon by the Defendant as commercially absurd.

75. According to the Defendant's evidence, Mr Leng was involved in numerous meetings about the Land. He only attended one meeting attended by Mr Parritt and Mr Tichband at the Devil's Punchbowl in Mayfair and later the Dover Arts Club. He describes himself as being a witness to a discussion between Mr Parritt and Mr Tichband that led to the Licence to Occupy being formalised by Bower Cotton. It follows that the meeting must have been before 31 July 2015.

76. Mr Leng's relationship with Mr Parritt broke down in 2015 and in May 2015 Mr Leng announced his decision to leave the business. Terms were negotiated and agreed in June 2015 but they were not honoured by Mr Parritt. Mr Leng resigned his directorships in November 2015. He finds it difficult to believe that Mr Parritt signed the Lease and Option but if he did he had the intention to defeat any claim Mr Leng might have had to the value of the Land following his exit from the business.

77. Mr Leng's evidence about Mr Parritt's normal signature and style of initials is important. He worked with Mr Parritt from 2002. He says the initials JP are not in Mr Parritt's normal style and he provides an example of a document initialled by Mr Parritt in 2015. The initials are entirely dissimilar in style and content with Mr Parritt using JAP with flourishes rather than JP as it appears on the Lease and the Option.

78. I should add that Mr Leng was cross-examined in some detail about allegations made against Mr Parritt in proceedings brought against him by the liquidator of a several Parritt/Leng companies. It did not appear to me that such matters shed any light on the issues in this claim or raised any issues of concern about Mr Leng's veracity as a witness.

Defendant's witnesses

79. Mr Gillan is a solicitor and a consultant with Charles Kiernan LLP in Tonbridge. His name appears on the Lease as the witness to Aimee Glynn's signature and on the Option. He also certified the two documents as being true copies of the originals on two separate occasions. He is aware that the authenticity of the Lease and the Option are challenged and,

in those circumstances, it is reasonable to expect a solicitor to consider carefully what occurred and to provide a full account. He said in evidence he is careful what he puts his name to. However, I regret to say that Mr Gillan's evidence must be viewed with real caution. There are several reasons for this:

(a) He says nothing about the form in which the documents were presented to him; whether they were bound or stapled or loose.

(b) He says nothing about the initials that appear on each page of the copies (even the page with the attestation clause) and whether they were present on the documents when he saw them. He does not say anything about Aimee Glynn placed her initials on each page of the documents; whether that had been done before the documents were presented to him, or it was done in front of him, before or after signing.

(c) He says in his statement only that he witnessed Aimee Glynn's signature on both documents. However, he is named as "Witness of Signatories" in the Option. The signature clauses appear with Aimee Glynn between Mr Parritt and Mr Bellamy. Mr Gillan accepts that he did not witness the signatures of Mr Parritt and Mr Bellamy. Whether they had signed the Option prior to it being presented to him, as Aimee Glynn claims, or he was being asked to witness her signature without the other two parties having signed the document, he would have been bound to decline to do so.

(d) On the second occasion of certifying copies he merely says in his statement that Aimee Glynn came to his office on 20 February 2017 "… with further copies of the same lease and option agreement. She asked me to repeat the certification exercise which I did." However, when asked if he had seen only copies on this occasion he said he would never certify a document as being a true copy of an original without seeing the original document. He explained that she came with copies (not copies of the certified copies) and he sent her away. She then returned on another occasion with the originals which he copied and certified.

80. The first two points were not put to Mr Gillan. That does not to my mind lessen their force or make any conclusions drawn from them unfair because they are observations about what a careful solicitor would wish to deal with in evidence in the knowledge that the authenticity of documents is to be proved, even if only to say he has no recollection about them. Taken with the other observations they cast very real doubt on his evidence and I do not consider it to be reliable.

81. Under the Option, Victor Bellamy is the guarantor of Claimant's obligations. He started working for Parritt Leng in late September 2015 although he visited the site in July 2015. His knowledge of the Lease and Option derives from having been told about them and he had limited knowledge about their terms. He describes a conversation with Mr Parritt when he expressed concern about "a long term revolving lease" and Mr Parritt's response that: "Paul Glynn was an honourable man going forward with Wellfit Street and other sites so there would be no problems when the time came to develop." He also says Mr Leng was aware of the parallel agreement.

82. His role in the execution of the Lease and Option is described in his witness statement.

> "… I was asked to be a witness to James Parritt's signature on the lease and option agreement. He signed them on the 19 December 2015 in my presence in the Coffee Shop at the end of Dover Street just up from Green Park Station and I then signed as witness to he's signature after he had finished signing. We then took the documents to the Glynn's offices". [sic]

83. He repeated in court that he was from his recollection only a witness. When his attention was drawn to the guarantee provisions in the Option he said he understood what being a guarantor meant and that he could be liable to pay money.

84. Mr Bellamy was convicted in about 2002 for the evasion of excise duty as a director of a company that had been involved in smuggling tobacco and sentenced to a term of imprisonment of 6 years. The length of the sentence is a clear indicator of the seriousness of the offence and Mr Bellamy accepted that he would have been involved in producing misleading documents as part of the enterprise for which he was convicted. Although the conviction occurred 15 years ago, it is not spent due to the length of the sentence and the court is entitled to take it into account as evidence of a propensity to be dishonest although, of course, the conviction is just one factor to be considered when evaluating his evidence.

85. Although it is not clear what Mr Bellamy has to gain to come forward as a witness to confirm a fictional story, I found Mr Bellamy to be a wholly unconvincing witness. It was plain he had given little thought in advance to giving evidence, and in making his statement, to the relevant events. He had not taken the simple step of looking at the documents about which he was giving evidence. He thought his evidence was about being a witness to the execution of the Lease and the Option. He clearly did not understand his role in relation to the Option and could not explain with any conviction what being a guarantor meant. He was not in a position to give the warranties contained in clause 7 of the Option and clearly had no idea of the scope of his liability under the guarantee. I discount his evidence entirely.

86. Aimee Glynn's and her mother's evidence lies at the heart of the Defendant's case. A statement was made by Myles Tichband but it adds nothing of substance to the Defendant's case and his evidence was not challenged. Aimee Glynn was cross-examined at length and it became increasingly clear during the period in which she was examined that her evidence is completely unreliable. She was an unhelpful witness throughout, ever anxious to tell her story rather than answer difficult questions. Critically, her evidence both before the trial and during her questioning changed and improved to meet the needs of her case. There are numerous examples of this including:

(a) When first asked about the Lease in her conversation with Tom Luck she said it was for a term longer than 5 years. Subsequently, the story changed and the Lease was said to be for a five year terms and therefore not registrable.

(b) Her version of the events immediately before the signing of the Lease and Option changed markedly between her first and second statements. Her first version relied upon dates and timing derived from copies of documents that purport to be emails passing between her and Mr Parritt. No explanation has been given for how the computers, hers and Mr Parritt's, both provided mismatched dates and days of the week. The first version of events cannot be squared with her subsequent version even allowing for the unlikely event of a

computer placing the wrong date or day on an email. The emails are not genuine.

(c) Her evidence about the genesis of the second certified copy of the Lease and the Option developed over time. In her first statement, she says the certified copy produced in December 2015 was in her father's safe to which access could not be obtained. She does not say so in terms but it is clear there was no other copy available. She merely says in her statement that she asked her solicitors (presumably Mr Gillan) to provide a copy of the lease which she sent to her conveyancers Andrew Lee & Co to forward to Gateleys. She does not mention the Option. This left the problem that neither Aimee Glynn nor Mr Gillan had a copy of the Lease or the Option and the certified copies dated 20 February 2017 are not copies of the earlier certified copies. Initally, Aimee Glynn said she had obtained a copy of the documents from Mr Parritt. However, Mr Gillan gave evidence that he refused to certify from a copy and required to have the originals in front of him. Aimee Glynn went to see Mr Parritt for a second time and collected the original and them took them to Mr Gillan for certifying. She then returned the originals to Mr Parritt. This much-altered version of events is implausible. Bearing in mind the intense pressure placed on the Defendant by Gateleys, it would have been far easier and preferable to make the originals available for inspection. Instead, apparently relying on advice from Andrew Lee, who she said was on holiday and therefore unavailable to be called as witness, a certified copy was produced.

(d) One of the emails that is disputed is dated 17 January 2017 from Mr Parritt to Aimee Glynn. When asked how she could have received it when it was sent to an email account she claimed she had no access to, she said Mr Parritt had handed her the email in paper form at a meeting.

(e) The note that is part of the copy cheque is dated 21 December 2015; the cheque is dated 22 December 2015. The date of the note does not fit with the revised version of events relating to signing the lease. Aimee Glynn explained that she must have taken the date from the date of the Lease, rather than writing the actual date.

(f) Paragraph 12 of her first statement refers to the dates of a number of meeting with Mr Parritt and in particular to a meeting on 18 November 2015 "according to my diary". However, she does not mention that the diary had been stolen two days previously. The diary extracts later disclosed do not contain any reference to the meeting on 18 November 2015. In her second statement, she explains the date was listed in her diary at work which she kept on an office phone that has since been stolen. But she goes on to say that on 18 November 2015 Mr Parritt and Mr Leng turned up at the yard unannounced and it is not clear therefore why there would have been a diary entry at all.

(g) The disputed letters 27 April 2015, 11 May 2015 and 28 July 2015 and the agreement dated 20 August 2015 were not mentioned at all in her first statement. They were said to have found in her father's safe when it was finally opened in May (the date is not clear). However, she must have been

aware of such important documents that repeatedly set out the core terms relied upon.

(h) Some of the emails purportedly sent to Aimee Glynn were sent to her at the admin@gmr-services.com address. Emails were sent to her at aimee@gmr-services.com after the burglary in April 2017 but she said she was unable to access the in-box with the admin prefix.

87. There are also numerous aspects of the version of events put forward by Aimee Glynn and Elaine Glynn that are unbelievable. Aspects of the evidence provided by Aimee Glynn and her mother that warrant comment include:

(a) Elaine Glynn's witness statement concludes by referring to a witness statement dictated by her husband Paul Glynn "… in the weeks leading to his death to be used if necessary. His statement was witnessed and written word for word by me." It follows that the statement must have been prepared during February 2017 (it is undated) and yet no reference was made to it until it was exhibited to Elaine Glynn's statement and provided on exchange on about 9 June 2017. Aimee Glynn says she was aware of the statement because she was present (in and out of the room) when it was being dictated. She makes no mention of its existence and it was not included as part of the Defendant's disclosure.

(b) Paul Glynn's safe at home plays a prominent part in the evidence. There is also a safe at the office but, apparently, it was not used and was empty. Aimee Glynn's evidence is that the copies of the Lease and the Option certified on 23 December 2015 were placed in her father's safe after execution. When the safe was finally opened in May 2017, the certified copy (that is the original certified copy) was not there and only a copy of the certified copy survived. Copies of the note of the meeting in April 2015, the disputed letters and the agreement dated 20 August 2015 were in the safe. In each case, it is said none of these documents were originals. It is inherently improbable that Mr Glynn would have taken the trouble to put in his safe at home photocopies of important letters that had been stamped with receipt or sent stamps. More significant than this is the seemingly perverse decision not to arrange to get external assistance to open the safe from the moment access to the lease was needed. If the keys to the safe could not have been found, and there was a reluctance to press Mr Glynn to assist with finding them due to his ill-health, it would have easy to get the safe opened. The work in doing so was invoiced by a company run by Joe Glynn, one of Aimee's siblings, in May 2017 and the job could have been done at any time from January onwards. I would add that Paul Glynn was, according to the Defendant's case, well enough to dictate a coherent statement in February 2017 but, seemingly, not well enough to say where he had put his safe keys.

(c) Aimee Glynn says she forwarded to her mother in 2015 emails that related to the business and then deleted the emails. This would have involved deleting them both from her inbox and the sent box. On 30 March 2017 Elaine Glynn says she came across several emails on an old iPad that had been forwarded to her and forwarded them back to Aimee Glynn. These are the Disputed emails which are very limited in number although Elaine Glynn said she forwarded a larger number

of emails. Both Aimee Glynn and her mother say the emails have not been tampered with. However, the Defendant's case makes no sense at all. The disputed emails were apparently forwarded in 2015 from aimeeglynn@hotmail.com to e.glynn@btinternet.com and forwarded back to Aimee Glynn at the same Hotmail address from Elaine Glynn's btinternet email address in March 2017. The 2017 email records in a footer that Elaine Glynn's email was sent from her iPhone although her evidence is that she forwarded the emails from an old iPad that unfortunately has since been stolen from Aimee Glynn's car. Elaine Glynn said she had an iPhone and it had not occurred to her to search it. She had lost the password to the btinternet account but it had not occurred to her to contact btinternet to get access to her account so the emails forwarded to her in 2015 could be verified. The explanation for the iPhone footer is that the iPad and the iPhone were linked and when emails were sent on the iPad the iPhone footer appeared.
There has been no real effort made by the Defendant to provide any metadata in relation to the Disputed emails. By contrast, the Claimant has offered access to the Disputed emails in their native format so that the metadata could be checked. The offer was not taken up. Aimee Glynn made contact with Chris Hoyle of Cyfor, a digital forensic company, in April 2017. She was told by him that when an email is forwarded the metadata is stripped out. He suggested that Elaine Glynn should send her the emails as attachments which could then be forensically examined. This was not done.

(d) There is an inherent unlikelihood of Aimee Glynn forwarding business emails relating to the Land to her mother in July 2015 and then deleting both the email received and the sent email. The explanation is that the emails related to her parents' business. This overlooks the fact that the Defendant's transaction is said to have been for Aimee Glynn and her company.

(e) The Disputed emails are central to the claim. They were put forward by the Defendant to bolster its case that the Lease and Option are genuine. They have the opposite effect. The Defendant's case overlooks the obvious fact that email accounts are not device specific and the account holder could have requested the provider to produce the emails in native format. The story about forwarding and re-forwarding, followed by the theft of the iPad is an obvious construct that is untrue. It is clear beyond any doubt the emails have been tampered with and the Defendant's versions are false. Furthermore, it is inescapable that Aimee Glynn must have been directly or indirectly involved in the process of falsification and knowingly putting forward evidence that is false. It is not possible to judge how far Elaine Glynn was involved in the falsification of the emails but it is clear her account of what was done is untrue.

(f) Aimee Glynn blames the burglary on 2 or 3 April 2017 for the loss of business laptops and paper records, and later she said of office phones. The report from the Police only includes the laptops and it is not obvious why a burglar would steal business records and papers. There is no evidence to support the subsequent theft from Aimee Glynn's car of all the paper records relating to the parallel transaction and the iPad. The loss of all the paper records is obviously untrue because the Defendant, without apparently having access to

any electronic or paper records, has been able to disclose copies of some contemporaneous documents. Examples of this include the email from Julia Ferguson of Judge & Priestley dated 24 July 2015 and the Claimant's version of the Disputed email of the same date. Furthermore, Aimee Glynn referred to having come across an email from Roger Harris dated 20 July 2015 in paragraph 30 of her second statement. The email was finally produced after much cajoling by Gateleys on the first day of the trial. The document produced shows no sign of having been forwarded to her by her mother and the purported email itself bears no date. The circumstances of its production led to Mr Newcomb of SNS being called to the witness box which did little to throw light on the position and provided little encouragement to believe that the Defendant's disclosure obligations to the court had been undertaken with the degree of rigour that a case such as this demands.

(g) There was no need for the agreement dated 20 August 2015 to have been entered into. Terms had been agreed and the Defendant's case is that a lease was expected. It is notable that the agreement did not emerge until disclosure.

(h) Aimee Glynn claims she took the Lease and Option to Mr Gillan a few days before the Christmas holiday without making an appointment. She could not have known that he would be at his office in Chislehurst. However, the absence of an appointment means there is no record of a making an appointment by email or otherwise.

(i) Not least are the terms of the Lease and the Option. The Defendant's case is that a commercial developer having paid £2.3 million for a development site agreed to grant a lease for a term of up to 25 years for a rent of £520 pa payable every two years in arrears. Mr Luck's evidence is that the rental value was between £25,000 and £30,000. In addition, the developer also agreed to (a) the absurd provisions in clauses 22.3.1 and 22.3.2, (b) the Land being subject to an option enabling the Defendant to acquire it for £1.1 million when it was worth £2.3 million with the balance of the option price payable over five years. It is inconceivable that terms along these lines would have been agreed in April 2015 at a time before Mr Parritt and Mr Leng had agreed terms for Mr Leng to be bought out.

Handwriting evidence – the law and the facts

88. The Defendant is critical of the way in which the Claimant has proceeded with the claim. It is said that the trial has come on with undue haste and the Claimant has not sought permission to rely upon expert handwriting evidence. However, it is a matter for the Claimant to decide upon the way in which it wishes to present its case and the choice to rely upon expert evidence is one by which the Claimant's case must stand or fall. That said, in the absence of any original documents the scope of expert evidence would have been limited to a comparison of signatures and initials on the copy documents disclosed with signatures on original documents by Mr Parritt and Paul Glynn.

89. Witnesses may not generally, unless they are experts, compare specimen signatures with disputed signatures and express an opinion about the likeness or otherwise of the

disputed signature to the true samples. For that reason, the court has not admitted Ms Portman's expressions of opinion. However, evidence of identity of a person, or familiarity with a signature, is not regarded as expert opinion. A witness is entitled to say that is has seen a person's signature previously and the signature that is disputed is unlike the usual signature. Evidence of recognising a signature or, by parity of reasoning, not recognising a signature is admissible as the passage at para. 1-45 in Expert Evidence: Law and Practice 3rd ed. makes clear. At paragraph 1-046, the authors contrast the position concerning evidence of comparison, which they say is for an expert. In the case of recognition evidence, the weight to be given to it is a matter for the court.

90. However, under s.8 of the unhelpfully titled Criminal Procedure Act 1865, the court has a role in comparing handwriting. The section provides:

> "Comparison of a disputed writing with any writing proved to the satisfaction of the judge to be genuine shall be permitted to be made by witnesses; and such writings, and the evidence of witnesses respecting the same, may be submitted to the court and jury as evidence of the genuineness or otherwise of the writing in dispute."

91. This provision was discussed in *Lockheed-Arabia v Owen* [1993] 3 W.L.R. 468 by Mann LJ. He was satisfied that the section applies in civil proceedings. Halsbury at vol. 12 para. 886 contrasts the role of an expert with the role of the court in the following way:

> "Experts may also give their opinions as to whether handwriting is natural or imitated, and whether it shows points of comparison, but it is for the court to determine whether a particular piece of writing is to be assigned to a particular person, and documents may be submitted to the court for comparisons to be made."

92. Support for a similar proposition can be found in Phipson on Evidence 18th ed. at para 33.92.

93. In this case the court has been provided with evidence from Mr Leng that the signature appearing on the letters relied upon by the Defendant is not his. I accept his evidence and it is unnecessary for the court to attempt a comparison between his normal signature and that which appears of the letters. Of more significance is the evidence Mr Leng gives about Mr Parritt's initials on the Lease and the Option.

94. Mr Harris says, and I accept, he is familiar with Mr Parritt's signature having seen it many, many times. He says he is struck by the initials JP that appear on both documents and that they are in a style with which he is not familiar. Mr Parritt always signed and initialled with a flourish. Mr Leng has produced a document that has seven pages initialled by Mr Parritt. I accept they are genuine samples. The initials appear as JAP and are signed with a flourish like his genuine signature. The initials JP on the Lease and the Option are, as far as it is possible to discern without a forensic examination, identical.

95. In addition, the Claimant points to manuscript notes disclosed by the Defendant that are said by the Defendant to be notes made by Mr Parritt. If extracted from the notes the letter "J" in "June" appears to be identical to the J in the initials JP on each page of the Lease and the Option. But, it might be said, if Mr Parritt did initial each page of the Lease and the Option his J would be likely to be similar to other Js written by him.

96. More telling, to my mind, is the lack of difference between initials repeated on multiple occasions and the very different style between the JAP written with a flourish by Mr Parritt and the JP which is uniform. These are strong indications that the Lease and the Option were not executed by Mr Parritt.

Conclusions

97. The Claimant seeks to prove its entitlement to possession of the Land. The licence permitted occupation of the Land for up to 12 months. It expired in 2016. There is no basis for concluding that any new right to occupy was created upon the expiry of the licence. The Defendant claims to have paid the licence fee of £25,000 but that sum was returned. No evidence of the payment and return of that sum has been produced by the Defendant and there is no evidence of any other payment being made by the Defendant. Unless the Defendant can establish that the Lease is a valid document, it must follow that the Claimant is entitled to an order for possession.

98. The Defendant is required to prove the authenticity of the Lease and it has failed to do so. As I have indicated, I do not accept the evidence of the Defendant's witnesses and it would suffice for me to conclude that the Defendant has not discharged the burden placed on it. However, it is right that matters are not left there given the evidence that was placed before the court.

99. The Defendant's case starts to fall apart as soon as the Disputed emails are considered. The Defendant is unable to explain how there came to be two versions. Even at the stage of disclosure, the Defendant was, without providing any explanation, able to produce one of the emails in the Claimant's version. I am in no doubt that the Disputed emails were tampered with by Aimee Glynn, or someone acting on her behalf, and with the active assistance of her mother. The Disputed emails were created to bolster an entirely fictional case.

100. When challenged, the Defendant has resorted to a series of transparent devices to avoid producing any original documents or emails with metadata. When the Defendant's versions of the Disputed emails are taken out of the picture, one is left with two transactions, the Claimant's and the Defendant's, as if there were parallel realities. In fact, there is only one reality and that is the Claimant's. Even though the Defendant has not assisted the court by providing Judge & Priestley's file, the Claimant's transaction is adequately documented. It was a straightforward commercial sale and purchase with a 12 month licence to occupy, as would be quite normal where the consents for the development would take a little time to obtain. All the documents that have been made available, including the emails between the lawyers and the transaction documents, point unequivocally to a transaction that was completed on 31 July 2015 without there being any suggestion of a separate transaction being contemplated.

101. By contrast, the Defendant's transaction asks the court to accept a version of events that is underpinned by false emails, documents which cannot be verified, an inaccessible safe, a deathbed statement and mysterious thefts of electronic devices and company papers. It asks the court to accept that a commercial property developer would have been willing to complete one transaction but have previously orally promised to throw away the fruits of it by granting the Lease and Option without any involvement of the transaction lawyers on either side. There is no reason why a developer would acquire a site for £2.3 million and agree to grant an option to sell it for £1 million on terms that provided for payment over 5

years. Equally, a developer is hardly likely to encumber a site bought for £2.3 million for development with a lease with a term of up to 25 years at a nominal rent. And if that were not enough, the landlord is subject to a huge penalty if the lease was terminated. Plainly, what I have described as the Defendant's transaction is a work of poor quality fiction.

102. The Defendant's case has involved the creation of a large number of documents and the suppression of documents to which the Defendant has access. Emails using Elaine Glynn's btinternet.com address and Aimee Glynn's Hotmail and gmr-services.com addresses fall into the latter category. I am satisfied that the Lease, the Option and all the documents that were the subject of the notice under CPR 32.19 are false with one minor exception. The exception is the diary only to the extent that the diary itself may not be entirely false. However, I do not accept that any of the entries that relate to the Lease and Option are genuine.

103. I would add that I have not felt it necessary to resort to drawing adverse inferences in order to reach these conclusions. However, there are numerous occasions where such inferences could properly have been drawn. Some of the most obvious examples are:

(a) The Defendant made no effort to obtain Judge & Priestley's file relating to the Defendant's transaction. No explanation was provided for this failure beyond the suggestion by Aimee Glynn that the firm had been instructed by her parents and their company, Glynns, and she and the Defendant could not ask for the file. It is right that the Defendant was not a client of Judge & Priestley and the retainer would require some examination but it is plain that Elaine Glynn was a client of the solicitors because of the way in which the titles were held. And the administrator of Paul Glynn's estate has a right to have access to the file. In the context of a claim such as this where the issues concern the Glynn family, a request could and should have been made for the file.

(b) Gateleys located Julia Ferguson, who is no longer with Judge & Priestley, and offered SNS facilities to interview her jointly. This suggestion was refused with the Defendant insisting that she was to be interviewed solely by SNS. The upshot was an important witness was not made available to the court.

(c) The witnesses to the August 2015 agreement were not called to give evidence by the Defendant. Where the authenticity of a formal document is challenged, calling the witnesses to the signatures is essential where they can be located. The court was given no reason to believe, for example, that Shannon Glynn, who is Aimee Glynn's sister, was not available.

104. In the circumstances, I do not need to deal with the Claimant's alternative cases.

105. I will make an order for possession and dismiss the counterclaim.